



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2022-0031]

Notice of Availability of a Draft Supplemental Environmental Assessment and Draft Finding of No Significant Impact for Emergency Response for Highly Pathogenic Avian Influenza Outbreaks in the United States Migratory Bird Flyways

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that a draft supplemental environmental assessment (EA) and draft finding of no significant impact (FONSI) have been prepared by the Animal and Plant Health Inspection Service relative to our emergency response activities to highly pathogenic avian influenza outbreaks in commercial and backyard poultry operations located in the four migratory bird flyways in the United States. This draft EA supplements the initial EA and FONSI we published in September 2022, which evaluated the environmental impacts associated with the first seven States where highly pathogenic avian influenza outbreaks occurred. We are making this draft supplemental EA and draft FONSI simultaneously available to the public for review and comment.

DATES: We will consider all comments that we receive on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to www.regulations.gov. Enter APHIS-2022-0031 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- **Postal Mail/Commercial Delivery:** Send your comment to Docket No. APHIS-2022-0031, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

The draft supplemental EA, draft FONSI, and any comments we receive on this docket may be viewed at www.regulations.gov or in our reading room, located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC 20250. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Bare, Chief of Staff, Veterinary Services, APHIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Whitten Building Room 318-E, Washington, DC 20250; (515) 337-6128; chelsea.j.bare@usda.gov.

SUPPLEMENTARY INFORMATION:

Under the Animal Health Protection Act (AHPA) (7 U.S.C. 8301-8322) the Secretary of Agriculture is authorized to protect the health of livestock, poultry, and aquaculture populations in the United States by preventing the introduction and interstate spread of serious diseases and pests of livestock, poultry, and aquaculture, and eradicating such diseases within the United States when feasible. This authority has been delegated to the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS).

Highly pathogenic avian influenza (HPAI) virus is one such disease of livestock. HPAI is extremely infectious and often fatal to poultry.¹ Avian influenza (AI) viruses may circulate freely in wild bird populations without the birds appearing sick. As these birds migrate, they

¹ Domestic poultry that can be affected include chickens; turkeys; ring-necked pheasants; ducks; geese; common, Japanese, or bobwhite quail; Indian peafowl; chukar or grey partridge; pigeons; ostrich; and guinea fowl.

carry HPAI and other AI viruses with them and may subsequently transmit AI to domestic birds. HPAI can rapidly spread within and between domestic poultry flocks and wild bird (especially waterfowl) populations. Because birds infected with HPAI become a source of disease to additional poultry and wild birds, it is APHIS' objective to stamp out HPAI as rapidly as possible at locations where it has been found. Preventing the entry of diseased birds and eggs into the United States, monitoring AI in migratory birds, identifying AI strains occurring primarily in migratory waterbird species, as well as backyard and commercial poultry flocks, and stamping out HPAI as it arises in domestic poultry is important for the long-term maintenance of disease-free United States poultry stocks.

On February 8, 2022, the HPAI H5N1 (AI strain) virus subtype was detected in a commercial turkey flock in Indiana. By February 24, 2022, H5N1 had been detected in commercial poultry facilities and backyard flocks in seven States (Indiana, Kentucky, Virginia, New York, Maine, Delaware, and Michigan). Due to the emergency situation and in accordance with 7 CFR 372.10 of APHIS' National Environmental Policy Act (NEPA) Implementing Procedures, APHIS published a draft environmental assessment (EA) and draft finding of no significant impact (FONSI) in April 2022 to allow VS to carry out emergency response activities as a result of HPAI outbreaks in the aforementioned seven States at the start of 2022. A final EA titled "Emergency Response for HPAI Outbreaks in Seven States" and final FONSI were published in September 2022.²

Since the preparation and publication of the final EA and final FONSI for the initial seven States, HPAI outbreaks have continued to occur across the United States. Within 15 months, the virus was confirmed in 325 commercial and 507 backyard flocks, affecting

² To view the draft EA, final EA, comments, and the FONSI, go to www.regulations.gov and enter APHIS-2022-0031 in the Search field.

approximately 59 million birds in 47 States.³ As HPAI outbreaks have been stamped out, new outbreaks emerge and are likely to continue with seasonal (i.e., spring and fall) bird migrations. For this reason, APHIS prepared a supplemental EA to cover VS' HPAI emergency outbreak response activities in the four North American migratory bird flyways (i.e., the Atlantic, Mississippi, Central, and Pacific Flyways). APHIS' review and analysis of the potential environmental impacts associated with VS' HPAI emergency outbreak response activities for additional outbreaks in commercial and backyard poultry operations in the four North American migratory bird flyways are documented in detail in the draft supplemental EA titled "Emergency Response for Highly Pathogenic Avian Influenza Outbreaks in the United States Migratory Bird Flyways."

The draft supplemental EA presents the purpose and need for the action, a description of the affected environment, and an analysis of potential environmental impacts of the No Action and Proposed Action (Preferred) Alternatives. The two alternatives considered in the supplemental EA meet the purpose and need for VS to carry out its goal to stamp out HPAI as quickly as possible.

Potential direct and indirect effects on the environment are evaluated under each alternative. The potential environmental impacts on the following resources are considered in the draft supplemental EA: Soil, air, and water quality; humans (including effects on health and safety; cultural and historic resources; equity and environmental justice; children's health, and Tribes); and wildlife and plant populations, especially birds of conservation concern, eagles, and threatened and endangered species. The draft supplemental EA also considers cumulative impacts from other past, present, and reasonably foreseeable future related actions.

³ Current HPAI outbreak data can be accessed at APHIS' website at <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/avian-influenza/2022-hpai>.

Based on the draft supplemental EA, APHIS has concluded that the Proposed Action Alternative will not have a significant impact on the quality of the human environment and a draft FONSI is appropriate with respect to the proposed action. After the public comment period ends, we will consider all comments received, revise the draft supplemental EA to address these comments, as appropriate, and publish a final NEPA document and decision.

The draft supplemental EA was prepared in accordance with: (1) the National Environmental Policy Act of 1969⁴ (42 U.S.C. 4321 *et seq.*), (2) the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR parts 1500-1508) in effect as of the date of this notice, (3) USDA's NEPA implementing regulations (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 18th day of August 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

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⁴ The Fiscal Responsibility Act of 2023 (Public Law 118-5), which became effective on June 3, 2023, amended the National Environmental Policy Act. The draft final EA and FONSI described in this notice were prepared before the effective date of the Fiscal Responsibility Act of 2023 and reflect the requirements of the National Environmental Policy Act before June 3, 2023.